

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
FEBRUARY 4, 2014**

**CALL TO
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Gina Klempel, Ole Netteberg, Mark Hash, Cal Dyck and Roger Noble. Alex Hogle represented the Flathead County Planning & Zoning Office.

There were 3 people in the audience.

**ELECTION OF
OFFICERS**

Netteberg made a motion seconded by Noble to nominate Hash for Chair.

Hash said there would be times when he could not chair due to his office being involved in an application or other commitments.

The motion passed unanimously.

Dyck made a motion seconded by Netteberg to nominate Klempel for vice chair.

The motion passed unanimously.

**APPROVAL OF
MINUTES**

Netteberg motioned and Dyck seconded to approve the January 7, 2014 minutes. The motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**MDT
(FDV 13-01)**

A variance from certain requirements of the Flathead County Floodplain and Floodway Management Regulations (FCFR) has been requested by the Montana Department of Transportation related to the replacement of a US Highway 2 West bridge in the 100-year floodplain of Ashley Creek. The variance is requested because the 'freeboard' between the low beam of the proposed bridge and the Base Flood Elevation would be less than is required per Section 5.03(C) FCFR. The application indicates the hardship necessitating the variance is due to a combination of constraints including proximity to right-of-way, geotechnical considerations, proximity to an existing drainfield, and the project intent to provide a clear span bridge opening with no

piers. The application indicates redesigning the roadway vertical alignment would compromise one or all of the cited constraints. The bridge is located 100 feet north of the intersection of US Highway 2 West and Managhan Lane.

STAFF REPORT Hogle reviewed Staff Report FDV 13-01 for the Board and explained a handout to the board.

BOARD QUESTIONS None.

APPLICANT PRESENTATION None.

PUBLIC COMMENT None.

BOARD QUESTIONS Hash asked who they would address their comments to if the board had any questions of the DNRC.

Bob Vosen, district instruction engineer, introduced himself and KC Yahvah who was the designer.

Noble and Hogle discussed the DNRC floodplain administrator's comments which found no issue with the design.

Noble and Dave Hedstrom, DNRC hydraulic section, discussed if the applicant had the information on water flows from 1997, how they compared to the hundred year flood event numbers and what the purpose of the bridge was.

Noble, Hogle and the applicants discussed at length what permits were required, if the applicant had them and if the applicant had categorical exclusion.

The board and Hogle discussed if the Planning Office was obligated to find out what permits were required and condition their acquisition, when the Planning Office may suggest other permits are needed and what the applicant's responsibility was concerning needed permits.

Hogle explained in detail what staff was required to examine concerning an application.

Klempel said Hogle's explanation addressed her concerns.

Dyck said the board members were there to address one change of a condition in the original permit, which was the change in elevation. That was all they could address because the applicant had already gone through the permitting process and what had been required of them. They needed to keep their focus on what they were there for otherwise they would be on a rabbit trail and outside what they were required to be there for.

**MAIN MOTION
TO ADOPT
F.O.F., ET AND
APPROVE
(FDV 13-01)**

Dyck made a motion seconded by Klempel to adopt staff report FDV 13-01 as findings-of-fact.

**BOARD
DISCUSSION**

None.

**MAIN MOTION
TO APPROVE
(FDV 13-01)**

Klempel made a motion seconded by Dyck to approve FDV 13-01.

**BOARD
DISCUSSION**

None.

**VOTE TO
APPROVE
(FDV 13-01)**

The motion passed unanimously.

OLD BUSINESS

None.

NEW BUSINESS

Hash asked Hogle why staff did not suggest a condition concerning complying with other permits needed such as a standard condition for applications.

Hogle explained in depth the problems with requiring specific permits for projects from other agencies. Two of the problems were floodplain permits were the last of the permits required for a project and the requirement for all applicable permits having been obtained in the Floodplain Regulations.

Hash said some people had professionals help them through the process who knew what was required for permits but there were others who were working through the process by themselves and did not have knowledge of all the required permits.

Hogle said there were incongruences in the floodplain regulations which needed to be resolved, it would be appropriate to get some direction, when the time was right, from the various boards to try to make some improvements which would streamline the process and make the county's defensibility better. He explained what the staff's responsibility included. It did not include calling other offices to find out what permits were needed for projects which had been submitted to the office. He said he would like the regulations to be amended to state documentation was required from other agencies as to whether or not a permit was applicable.

Noble said he thought Hogle had just read from the floodplain regulations that all other permits were required to be in place before the floodplain permit was given.

Hogle said the wording said 'all applicable permits' and that was where the rub was. A staff member would not know for sure when a permit from another agency was or was not applicable. He read further to state 'it was the responsibility of the applicant to determine all other necessary permits had been obtained.' Staff had to take the word of the applicant if the permits were or were not applicable. He appreciated Noble asking the question.

Hash said the board was a good mix of people who had a lot to offer.

ADJOURNMENT The meeting was adjourned at approximately 6:50 pm. on a motion by Klempel. The next meeting will be held at 6:00 p.m. on March 4, 2014.

Mark Hash, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 3 / 4 / 14*